

REMARKS

Claims 1, 4-16 and 30 are pending in the application. Upon entry of the present amendment, claim 1 will be amended. Entry of the present amendment, reconsideration of the rejection and allowance of the pending application in view of the following remarks are respectfully requested.

In the Office Action, the Examiner rejected claims 1, 4-16 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Yamazaki (U.S. Patent No. 4,067,027) in view of Cross (U.S. Patent Application Publication No. 2003/0086165). Applicants respectfully traverse the rejection for at least the following reasons.

Applicants' independent claim 1 recites a binocular telescope having a pair of observation optical systems which includes, inter alia, a pair of reticle elements on which reticles are formed, and an interpupillary distance adjuster. When the optical axes of the pair of observation optical systems are made completely coincident with the interpupillary distance of the user by using the interpupillary distance adjuster so that reticle images of the pair of reticle elements are fused, the fused reticle images are geometrically non-coordinate with each other and form a cross.

Yamazaki is directed towards a binocular telescope which includes objective lenses 11. See Figure 2 and col. 2, lines 15-18. At page 3 of the Final Office Action, the Examiner asserts that Yamazaki's objective lenses 11 are reticle elements on which reticles are capable of being formed. The Examiner appears to take the position that a image of an object viewed by Yamazaki's binocular telescope corresponds to Applicants' claimed reticle image, as the Examiner states, at the bottom of page 3 of

P23759.A10

the Final Office Action, that “[t]he symmetry of the image formed by the Yamazaki reference would depend on the image viewed.” Applicants respectfully submit that such a position is erroneous.

Applicants respectfully submit that a reticle is a pattern which is physically placed at the point of focus of an optical system. Applicants respectfully submit that an object which is viewed by Yamazaki’s binocular telescope is not physically placed at the focal point of Yamazaki’s optical systems, and thus an image of the object is not a reticle image, as recited in Applicants’ claim 1.

Applicants further submit that the object images which pass through Yamazaki’s left and right objective lenses 11 are exactly the same, and thus are not “geometrically non-coordinate” as recited in Applicants’ claim 1.

Cross is directed towards an illuminated reticle. Cross discloses, at paragraph 0014 on page 2, that some binoculars utilize reticles. However, Applicants respectfully submit that Cross does not disclose, or even suggest, that such binoculars include a pair of reticles whose images are geometrically non-coordinate with each other, as recited in Applicants’ claim 1. Rather, the only embodiment Cross describes in detail is a riflescope having only a single reticle 30. See Figure 1 and paragraph 0030 at page 3 of Cross, for example.

Thus, Applicants respectfully submit that the combination of Yamazaki and Cross fails to disclose or suggest a binocular telescope which includes a pair of reticle elements on which reticles are formed, provided in each of the pair of observation optical systems, where fused reticle images of the pair of reticle elements are

P23759.A10

geometrically non-coordinate with each other, as recited in Applicants' independent claim 1.

For at least these reasons, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of independent claim 1 is improper, and respectfully request the Examiner to withdraw the rejection and allow claim 1.

Dependent claims 4-16 and 30 are also submitted to be in condition for allowance for at least the reasons set forth above with respect to independent claim 1.

Further, Applicants' dependent claim 30 recites that a shape of a reticle image of a first reticle element of the pair of reticle elements is different than a shape of a reticle image of a second reticle element of the pair of reticle elements.

At page 7 of the Final Office Action, the Examiner acknowledges that Yamazaki does not disclose this feature, but asserts that this feature is taught by Land. Applicants note that the Examiner has not specifically set forth a 35 U.S.C. §103(a) rejection based upon the combination of Yamazaki and Land (the rejection of claim 30 being "lumped" together with claims 1 and 4-16 based upon the combination of Yamazaki and Cross). Applicants believe that the Examiner is referring to U.S. Patent No. 3,622,242 to Land, which the Examiner applied in previous Office Actions (but did not identify by patent number in the present Office Action), but respectfully request the Examiner to clarify the ground of rejection of dependent claim 30.

Assuming the Examiner is applying U.S. Patent No. 3,622,242 to Land, Applicants submit that Land is directed towards a binocular rangefinder which includes reticles 52 and 54. See Figure 2 and col. 2, lines 67-72. Applicants respectfully submit

P23759.A10

that Land's reticles do not form a cross when fused, as recited in Applicants' independent claim 1. Rather, Applicants submit that Land only discloses embodiments in which the reticle images are arrows or circles. See Figures 3a-3c and col. 4, line 54 – col. 5, line 25.

Thus, Applicants respectfully submit that the combination of Yamazaki and Land fails to disclose or suggest a binocular telescope which includes a pair of reticle elements on which reticles are formed, where fused reticle images of the pair of reticle elements are geometrically non-coordinate with each other and form a cross, and a shape of a reticle image of a first reticle element of the pair of reticle elements is different than a shape of a reticle image of a second reticle element of the pair of reticle elements, as claimed by Applicants' dependent claim 30.

For at least these additional reasons, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of dependent claim 30 is improper, and respectfully request the Examiner to withdraw the rejection and allow claim 30.

If the Examiner intended to apply a reference other than Land to reject claim 30, Applicants respectfully request that the next action be made non-Final, as the ambiguity of the status of claim 30 is due to the Examiner's actions.

Based on the above, it is respectfully submitted that this application is now in condition for allowance, and a Notice of Allowance is respectfully requested.

SUMMARY AND CONCLUSION

Applicants recognize that the current status of the present application is after-Final. However, Applicants respectfully submit that entry of the present amendment is

P23759.A10

proper under the current circumstances, as it is respectfully submit that the present amendment does not raise any new issues requiring further consideration and/or search.

Entry and consideration of the present amendment, reconsideration of the outstanding Office Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate. Applicants have made a sincere effort to place the present invention in condition for allowance and believe that they have now done so.

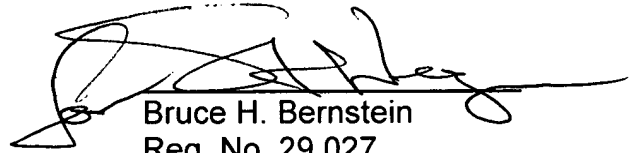
Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, including any extensions of time required to place the application in condition for allowance by an Examiner's Amendment, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

P23759.A10

Should the Examiner have any questions or comments regarding this response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Ken HIRUNUMA et al.



Bruce H. Bernstein
Reg. No. 29,027

Steven Wegman
Reg. No. 31,438

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191